

1 AN ACT

2 RELATING TO CORRECTIONS; CHANGING THE NAME AND COMPOSITION OF
3 THE CORRECTIONS COMMISSION; LIMITING THE ADVISORY AUTHORITY
4 OF THE CORRECTIONS INDUSTRIES COMMISSION TO THE CORRECTIONS
5 INDUSTRIES DIVISION; AMENDING, REPEALING AND ENACTING
6 SECTIONS OF THE NMSA 1978.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 Section 1. A new section of the Corrections Industries
10 Act is enacted to read:

11 "CORRECTIONS INDUSTRIES COMMISSION.--The "corrections
12 industries commission" is created. The commission consists
13 of seven members appointed by the governor with the advice
14 and consent of the senate for staggered terms of four years
15 or less in a manner that the terms of one or two members
16 expire as the case may be on June 30 each year. Four members
17 of the commission constitute a quorum for the transaction of
18 business. Not more than four members shall be of the same
19 political party. Any member who fails to attend three
20 consecutive meetings of the commission without being excused
21 by the commission shall be automatically removed. Vacancies
22 shall be filled by appointment by the governor for the
23 remainder of the unexpired term. Members of the commission
24 shall be reimbursed as provided in the Per Diem and Mileage
25 Act and shall receive no other compensation, perquisite or

1 allowance."

2 Section 2. Section 13-1-98 NMSA 1978 (being Laws 1984,
3 Chapter 65, Section 71, as amended) is amended to read:

4 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
5 provisions of the Procurement Code shall not apply to:

6 A. procurement of items of tangible personal
7 property or services by a state agency or a local public body
8 from a state agency, a local public body or external
9 procurement unit except as otherwise provided in Sections
10 13-1-135 through 13-1-137 NMSA 1978;

11 B. procurement of tangible personal property or
12 services for the governor's mansion and grounds;

13 C. printing and duplicating contracts involving
14 materials that are required to be filed in connection with
15 proceedings before administrative agencies or state or
16 federal courts;

17 D. purchases of publicly provided or publicly
18 regulated gas, electricity, water, sewer and refuse
19 collection services;

20 E. purchases of books and periodicals from the
21 publishers or copyright holders thereof;

22 F. travel or shipping by common carrier or by
23 private conveyance or to meals and lodging;

24 G. purchase of livestock at auction rings or to
25 the procurement of animals to be used for research and

1 experimentation or exhibit;

2 H. contracts with businesses for public school
3 transportation services;

4 I. procurement of tangible personal property or
5 services, as defined by Sections 13-1-87 and 13-1-93 NMSA
6 1978, by the corrections industries division of the
7 corrections department pursuant to regulations adopted by the
8 corrections industries commission, which shall be reviewed by
9 the purchasing division of the general services department
10 prior to adoption;

11 J. minor purchases not exceeding five thousand
12 dollars (\$5,000) consisting of magazine subscriptions,
13 conference registration fees and other similar purchases
14 where prepayments are required;

15 K. municipalities having adopted home rule
16 charters and having enacted their own purchasing ordinances;

17 L. the issuance, sale and delivery of public
18 securities pursuant to the applicable authorizing statute,
19 with the exception of bond attorneys and general financial
20 consultants;

21 M. contracts entered into by a local public body
22 with a private independent contractor for the operation, or
23 provision and operation, of a jail pursuant to Sections
24 33-3-26 and 33-3-27 NMSA 1978;

25 N. contracts for maintenance of grounds and

1 facilities at highway rest stops and other employment
2 opportunities, excluding those intended for the direct care
3 and support of persons with handicaps, entered into by state
4 agencies with private, nonprofit, independent contractors who
5 provide services to persons with handicaps;

6 O. contracts and expenditures for services or
7 items of tangible personal property to be paid or compensated
8 by money or other property transferred to New Mexico law
9 enforcement agencies by the United States department of
10 justice drug enforcement administration;

11 P. contracts for retirement and other benefits
12 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

13 Q. contracts with professional entertainers;

14 R. contracts and expenditures for litigation
15 expenses in connection with proceedings before administrative
16 agencies or state or federal courts, including experts,
17 mediators, court reporters, process servers and witness fees,
18 but not including attorney contracts;

19 S. contracts for service relating to the design,
20 engineering, financing, construction and acquisition of
21 public improvements undertaken in improvement districts
22 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and
23 in county improvement districts pursuant to Subsection L of
24 Section 4-55A-12.1 NMSA 1978;

25 T. works of art for museums or for display in

1 public buildings or places;

2 U. contracts entered into by a local public body
3 with a person, firm, organization, corporation or association
4 or a state educational institution named in Article 12,
5 Section 11 of the constitution of New Mexico for the
6 operation and maintenance of a hospital pursuant to Chapter
7 3, Article 44 NMSA 1978, lease or operation of a county
8 hospital pursuant to the Hospital Funding Act or operation
9 and maintenance of a hospital pursuant to the Special
10 Hospital District Act;

11 V. purchases of advertising in all media,
12 including radio, television, print and electronic;

13 W. purchases of promotional goods intended for
14 resale by the tourism department; and

15 X. procurement by or through the public education
16 department from the federal department of education relating
17 to parent training and information centers designed to
18 increase parent participation, projects and initiatives
19 designed to improve outcomes for students with disabilities
20 and other projects and initiatives relating to the
21 administration of improvement strategy programs pursuant to
22 the federal Individuals with Disabilities Education Act;
23 provided that the exemption applies only to procurement of
24 services not to exceed two hundred thousand dollars
25 (\$200,000)."

1 Section 3. Section 33-1-2 NMSA 1978 (being Laws 1978,
2 Chapter 4, Section 1, as amended) is amended to read:

3 "33-1-2. DEFINITIONS.--As used in the Corrections Act:

4 A. "division" or "department" means the
5 corrections department;

6 B. "director" or "secretary" means the secretary
7 of corrections;

8 C. "corrections facility" means any facility or
9 program controlled or operated by the state or any of its
10 agencies or departments and supported wholly or in part by
11 state funds for the correctional care of persons, including
12 but not limited to:

13 (1) the "penitentiary of New Mexico", which
14 consists of the penitentiary at Santa Fe and other places in
15 the state designated by the secretary; and

16 (2) the parole board to the extent delegated
17 by the Parole Board Act;

18 D. "commission" means the corrections industries
19 commission; and

20 E. "warden" or "superintendent" means the
21 administrative director of a correctional facility."

22 Section 4. Section 33-8-2 NMSA 1978 (being Laws 1981,
23 Chapter 127, Section 2, as amended) is amended to read:

24 "33-8-2. DEFINITIONS.--As used in the Corrections
25 Industries Act:

1 A. "commission" means the corrections industries
2 commission;

3 B. "department" means the corrections department;

4 C. "enterprise" means a manufacturing,
5 agricultural or service operation or group of closely related
6 operations within the bounds of a facility but does not
7 include standard facility maintenance activities and
8 services;

9 D. "facility" means a place under the jurisdiction
10 of the department at which individuals are confined pursuant
11 to court order;

12 E. "fund" means the corrections industries
13 revolving fund;

14 F. "local public body" means all political
15 subdivisions of the state and their agencies,
16 instrumentalities and institutions supported wholly or in
17 part by funds derived from public taxation; and

18 G. "state agency" means the state or any of its
19 branches, agencies, departments, boards, instrumentalities or
20 institutions supported wholly or in part by funds derived
21 from public taxation."

22 Section 5. Section 33-8-6 NMSA 1978 (being Laws 1981,
23 Chapter 127, Section 6, as amended) is amended to read:

24 "33-8-6. COMMISSION--POWERS AND DUTIES.--The commission
25 has the following powers and duties to:

1 A. determine those enterprises to be conducted in
2 facilities in such volume, kind and place as to eliminate
3 unnecessary inmate idleness at all facilities and to provide
4 diversified work activities that will serve as a means of
5 enhancing vocational skills;

6 B. determine whether any enterprise should be
7 established, expanded, diminished or discontinued;

8 C. establish policy with respect to the conduct of
9 all enterprises;

10 D. approve the prices at which all services and
11 products provided, manufactured, produced or harvested by
12 enterprises shall be furnished; provided that the prices
13 shall be as near the prevailing market price as possible. As
14 used in this subsection, "prevailing market price" means the
15 prevailing price that an equivalent product or service would
16 have if purchased by a state agency or local public body from
17 community sources. The commission shall include data
18 provided by the purchasing division of the general services
19 department in the price determination process. Compensation
20 paid to inmates shall be included as an item of the cost in
21 fixing prices;

22 E. consult regularly and continuously with state
23 agencies and local public bodies in order to develop new
24 enterprise products, adapt existing enterprise products and
25 establish new service functions to meet their needs;

1 F. act as liaison with private industry, organized
2 labor, the legislature and the general public;

3 G. obtain and provide technical assistance for
4 enterprise programs;

5 H. hold meetings at such times and for such
6 periods as it deems essential, but not less than quarterly;

7 I. recommend to the department the adoption of
8 rules necessary to carry out the provisions of the
9 Corrections Industries Act;

10 J. notwithstanding any other provision of law,
11 adopt policies and procedures that permit an enterprise to
12 make a single purchase of raw materials involving the
13 expenditure of twelve thousand dollars (\$12,000) or less
14 without bids and at the best obtainable price whether or not
15 the provider is the holder of a preexisting state contract
16 for the particular product. Records of such purchases shall
17 be maintained for auditor's inspection and reported at the
18 next scheduled commission meeting. Separate purchases of the
19 same or similar materials from the same or different
20 suppliers at the same time or about the same time where each
21 purchase does not exceed twelve thousand dollars (\$12,000),
22 but the aggregate of such purchases exceeds twelve thousand
23 dollars (\$12,000), shall be considered a single purchase
24 involving more than twelve thousand dollars (\$12,000);

25 K. notwithstanding any other provision of law,

1 adopt policies and procedures that permit an enterprise to
2 make a single purchase of a product or service other than raw
3 materials involving the expenditure of two thousand dollars
4 (\$2,000) or less without bids and at the best obtainable
5 price whether or not the provider is the holder of a
6 preexisting state contract for the particular product or
7 service. Records of such purchases shall be maintained for
8 auditor's inspection and reported at the next scheduled
9 commission meeting. Separate purchases of the same or
10 similar materials or services from the same or different
11 suppliers at the same time or about the same time where each
12 purchase does not exceed two thousand dollars (\$2,000), but
13 the aggregate of such purchases exceeds two thousand dollars
14 (\$2,000), shall be considered a single purchase involving
15 more than two thousand dollars (\$2,000);

16 L. review, approve, adopt and monitor an annual
17 budget for all enterprises. The budget process shall include
18 a projected profit analysis, sales forecast and anticipated
19 year-end financial forecast;

20 M. submit and recommend the names of one or more
21 qualified individuals to the secretary of corrections for
22 appointment as director of the corrections industries
23 division;

24 N. advise the director of the corrections
25 industries division in the management and control of the

1 corrections industries division;

2 O. assist in the process of inmate occupational
3 placement upon release from confinement by coordination with
4 the parole board and the field services division; and

5 P. prepare an annual report to the governor and
6 the legislature that contains:

7 (1) a detailed financial statement for each
8 enterprise in each facility;

9 (2) a detailed financial statement of the
10 fund;

11 (3) reasons for establishing or terminating
12 enterprises;

13 (4) a summary of plans to develop additional
14 enterprises;

15 (5) the number of inmates employed in each
16 enterprise;

17 (6) the number of idle inmates available for
18 work at each facility; and

19 (7) any further information requested by the
20 governor or the legislature."

21 Section 6. TEMPORARY PROVISION--CONTINUATION OF
22 APPOINTMENT TERMS.--Corrections commission members serving on
23 the effective date of this act shall continue to serve as
24 corrections industries commission members until their terms
25 expire and their replacements are appointed and qualified.

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Section 7. REPEAL.--Section 33-1-4 NMSA 1978 (being
Laws 1969, Chapter 226, Section 4, as amended) is repealed.

Section 8. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2005. _____